

From: Michael Darrin Tisdale
To: Microsoft ATR
Date: 1/23/02 12:43pm
Subject: Microsoft Settlement

I have decided to write this email to voice my opposition to the DOJ's proposed settlement with Microsoft. There is one key provision in it which I feel makes many of the other provisions null and void; thereby rendering much of the agreement worthless and the market effectively more anti-competitive.

One of the key definitions in the Agreement allows Microsoft to determine to whom it will license access to APIs and the like. Section III (J)(C) allows Microsoft to reject licensors from accessing its APIs, Documentation, or Communication Protocols to those that meet Microsoft's criteria for a business: the licensor must "... (c) meet(s) reasonable, objective standards established by Microsoft for certifying the authenticity and viability of its business, ..." Further, Section III (D) restricts the types of licensors for its "middleware" by defining independent software vendors, and others to only those that specify a direct commercial concern--in effect, a profit oriented organization. Lastly, even the US Government would be disqualified from licensing the technology for its solutions, as the US Government would not meet those requirements.

Of course, the major challenge to Microsoft today is not from businesses but from the Open Source community, one in which people do not desire to directly profit from their works. Since products like SAMBA, an interoperable version of Microsoft's file sharing system, are not from a business according to Microsoft, Microsoft would be able to kill off its primary competitor by refusing to license any information about its protocols. SAMBA depends upon this information to make its product compatible. Without access to that information, they would be unable to continue producing their product.

Strangely enough, then, Microsoft gets to determine its competitors, something I have never known any company to be able to do in its market. Only companies which meet Microsoft's standards for a business would be accepted; as these businesses would be at a clear distribution, marketing, and licensing disadvantage compared with Microsoft, the opportunity for real competition would fade away.

As a developer who uses both Microsoft and non-Microsoft products together, I have always struggled to achieve my goals as Microsoft has always hoarded its proprietary formats so that they control the information. I depend on interoperability, not single source solutions. That approach gives my clients a choice, the key advantage to a market, in their operations. If the current Agreement is approved, I am sorely afraid that I will no longer be able to offer that choice to my clients. Sadly, the market will become more monopolistic and ultimately defeat the goal of the Agreement.

I therefore do not support the approval of the Agreement, and I strongly urge

you do reject it.

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